

Notice of Allowability

Application No.

09/357,349

Applicant(s)

MASURE, STEFAN LEO JOZEF

Examiner

Art Unit

Sharon L. Turner

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-19-05.
2. ☒ The allowed claim(s) is/are 7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 10-19-05
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____


SHARON TURNER, PH.D.
PRIMARY EXAMINER
2-1-06

EXAMINER'S COMMENT

1. The amendment of 10-19-05 has been entered into the record and has been fully considered.
2. Claim 7 is allowed.

Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance: Upon reconsideration of Applicants arguments support for the newly amended claim is not found within applicants earliest priority document. Accordingly the prior art rejections of record are withdrawn.

4. Reasons for Allowance

1. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Request for Interference

2. In papers filed March 1, 2005; October 19, 2005 and January 11, 2006 applicants have requested that an interference be declared between the instant application and US 6,734,284. In the communication of January 11, 2006 applicant has also made reference to US 6,593,133. Applicant's request has been thoroughly considered. While it is clear that applicant's SEQ ID No: 3 represents a polypeptide species within the scope of the claims of the '284 patent it is equally clear that the claims of the '284 patent do not provide a written description of applicant's SEQ ID No: 3 nor is there prior art

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which would motivate one of ordinary skill in the art at the time the invention was made to have arrived at applicant's SEQ ID No: 3 given the '284 claims as prior art.

In order for an interference to be declared compliance with at least 37 CFR §41.203(a) must exist:

(a) Interfering subject matter . An interference exists if the subject matter of a claim of one party would, if prior art, have anticipated or rendered obvious the subject matter of a claim of the opposing party and vice versa.

As is set forth in the preceding paragraph the criteria for interfering subject matter are not met by the instant application and the '284 patent. Therefore, no interference will be declared.

3. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (571) 272-0894. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached at (571) 272-0867.


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Sharon L. Turner, Ph.D.

January 21, 2006


SHARON L. TURNER, Ph.D.
SPECIAL AGENT IN CHARGE
PRIMARY EXAMINER
1-20-06